

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

BANK OF AMERICA, N.A.,

Plaintiff,

vs.

Civ. No. 01-135 LH/WWD

APACHE CONSTRUCTION COMPANY, INC.,
a New Mexico corporation, MARIANO CHAVEZ,
JR., SALLY B. CHAVEZ, and CHAVEZ
FAMILY LIMITED PARTNERSHIP, a
New Mexico Limited Partnership,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon Defendants' Motion to Stay Initial Disclosures and Discovery Pending Resolution of Motion to Dismiss [docket no. 11] filed March 26, 2001.

Defendants have filed a Motion to Dismiss for Lack of Subject Matter Jurisdiction.

Plaintiff/Respondent argues that the matter will be litigated ultimately, and that postponing discovery simply will delay matters. That is true; however, it glosses over the question of whether we have jurisdiction to do anything in these circumstances. I will not assume jurisdiction in order to allow discovery to go forward in this instance.

WHEREFORE,

IT IS ORDERED that Defendants' Motion to Stay Initial Disclosures and Discovery Pending Resolution of Motion to Dismiss [docket no. 11] is GRANTED, and discovery and initial

disclosures are STAYED until May 29, 2001, or until the motion to dismiss is decided,
whichever shall come first.


UNITED STATES MAGISTRATE JUDGE